



In the Supreme Court of Iowa

**In the Matter of Establishment)
of the Iowa Business Specialty) Supervisory Order
Court Pilot Project)**

A key recommendation of the Iowa Supreme Court's Civil Justice Reform Task Force (Task Force) is the establishment of a pilot program for a business specialty court in the Iowa court system.¹ After much consideration, the court has determined to implement a pilot program based on the principal recommendations of the Task Force.² The "Memorandum of Operation" (Memorandum) attached to this Order outlines a three-year pilot program for the Iowa Business Specialty Court.

The primary impetus for business specialty courts is to improve the overall efficiency and responsiveness of courts. The Memorandum sets forth the contours of the Iowa pilot program. It does not constrict the program to predetermined parameters that may need to be flexible to match best practices that develop as the program unfolds.

The pilot program is designed and will operate within the framework of the existing Iowa court system with minimal impact on the balance of court operations. It is not intended to be a separate court favoring business litigation

¹ The Report of the Iowa Civil Justice Reform Task Force is available on the Iowa Judicial Branch website at:

http://www.iowacourts.gov/Advisory_Committees/Civil_Justice_Reform_Task_Force/. Pages 93-107 of the report and related appendices specifically address Task Force recommendations on business specialty courts.

² The Task Force determined that more than half the states have addressed the need for establishing business courts and that generally "business courts enjoy broad support from legal communities and notable legal organizations." The American Bar Association endorsed establishment of business courts in 1997. In 2007 the Conference of Chief Justices encouraged "states to study and, where appropriate, establish business courts or their equivalents for the effective management of complex corporate, commercial and business cases."

over other court priorities; it is meant to establish a separately managed docket within Iowa's unified court system that will leverage judicial expertise and litigants' desire to tailor case management practices best suited for resolving substantial business disputes fairly and expeditiously. The business court pilot program is not expected to divert judicial branch resources from existing priorities.

The Iowa Supreme Court, with assistance from the Iowa State Court Administrator, will initially select three highly qualified Iowa jurists to serve as business court judges. All interested Iowa judges are invited to apply. The criteria for selection of business court judges include educational background, judicial and trial practice experience in complex commercial cases, and personal interest.

Business court cases will be tried in the county in which they are filed or are otherwise properly venued under current Iowa rules. Eligible cases must have an amount in controversy, whether alleged or by agreement of parties, of \$200,000 or more, and involve a type of case delineated in section E of the Memorandum. All parties to the dispute must agree to opt in to the business court pilot program.

Unless the parties otherwise agree upon approval of the presiding judge, existing Iowa Rules of Civil Procedure, rules of evidence, and other Iowa Court Rules will apply to business court disputes.

The Iowa State Court Administrator will monitor the business court pilot program on an ongoing basis and provide an annual evaluative report to the supreme court regarding progress of the program and any need for adjustment to the program structure or operation.

The court anticipates accepting eligible commercial cases, whether existing or newly filed, for the pilot program no later than May 1, 2013. Accordingly, the pilot program would conclude May 1, 2016.

Dated this 21st day of December, 2012.

The Supreme Court of Iowa

By Mark S. Cady
Mark S. Cady, Chief Justice

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Memorandum of Operation

A. Introduction

On March 14, 2012, the Iowa Supreme Court's Civil Justice Reform Task Force released its final report proposing reforms to Iowa's civil justice system. One of the reforms the task force recommends is to establish a business specialty court pilot program within the existing court system framework of the Iowa Judicial Branch. By this Memorandum of Operation, the court hereby outlines a three-year pilot program for a business specialty court in Iowa.

B. Purpose

The primary aims of the Iowa Business Specialty Court will be to move business or complex commercial litigation cases through the court system more expeditiously, with lower costs for litigants and the court system. Businesses and attorneys will benefit from the business court's published body of case law providing guidance and promoting risk assessment for fair and cost-effective resolution of such cases. Judges will benefit from the development of specialized judicial expertise to be shared with their judicial colleagues. All Iowans should benefit from the creation of a more attractive and cost-effective environment for the resolution of complex business disputes. Non-business case dockets will benefit from the removal of time-consuming, complex business cases from the general docket. The court system as a whole should benefit from the business court's role as an incubator of innovative court practices that may be applied generally across the justice system.

C. Scope

The Iowa Business Specialty Court pilot project will maintain a statewide docket comprising business legal disputes that qualify for, and that the parties have chosen for, transfer into the pilot program.

The pilot program will run for a three-year period to allow a reasonable period of evaluation and adjustment, after which the court can then determine

whether the program should be permanently established under the Iowa Court Rules.

The Iowa Business Specialty Court pilot program docket will begin accepting cases for management and case processing no later than May 1, 2013. The pilot program will conclude May 1, 2016.

D. Presiding Judges and Venue

At least three Iowa district court judges will be selected by the Iowa Supreme Court from a pool of applicants to serve as judges for the Iowa Business Specialty Court. The State Court Administrator will invite interested and qualified judges to apply by completing a short application form that will be available on the Iowa Judicial Branch web site on or before December 21, 2012. Any judge wishing to preside in cases transferred to the business court shall complete the application form and submit it electronically to the State Court Administrator on or before January 18, 2012.

During the pilot project, cases transferred to the business court docket will be heard in in the county in which they are filed and properly venued under current Iowa rules. The pilot project will not impact existing Iowa venue rules.

Cases shall be assigned by the State Court Administrator to Iowa Business Specialty Court judges on a random basis.

E. Cases Eligible to be Heard in the Iowa Business Specialty Court Pilot Project.

Only cases in which compensatory damages totaling \$200,000 or more are alleged, or claims seeking primarily injunctive or declaratory relief, will be eligible for assignment to the business court docket. In addition, to be eligible a case must satisfy one or more of the following criteria:

- i. Arise from technology licensing agreements, including software and biotechnology licensing agreements, or any agreement involving the licensing of any intellectual property right, including patent rights.

- ii. Relate to the internal affairs of businesses (i.e., corporations, limited liability companies, general partnerships, limited liability partnerships, sole proprietorships, professional associations, real estate investment trusts, and joint ventures), including the rights or obligations between or among business participants, or the liability or indemnity of business participants, officers,

directors, managers, trustees, or partners, among themselves or to the business.

iii. Involve claims of breach of contract, fraud, misrepresentation, or statutory violations between businesses arising out of business transactions or relationships.

iv. Be a shareholder derivative or commercial class action.

v. Arise from commercial bank transactions.

vi. Relate to trade secrets, non-compete, non-solicitation, or confidentiality agreements.

vii. Involve commercial real property disputes other than residential landlord-tenant disputes and foreclosures.

viii. Be a trade secrets, antitrust, or securities-related action.

ix. Involve business tort claims between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them.

F. Procedure for designating a matter for the Iowa Business Specialty Court.

The business court pilot project includes a voluntary opt-in format in which all parties agree to bring their legal dispute to the Iowa Business Specialty Court docket.

i. Consent to transfer eligible cases. Parties may transfer a case to the business court docket by filing a joint consent, acknowledging that the allegations of the case meet the criteria set forth in section E of this Memorandum of Operation. The consent to transfer shall be in a form approved by this court and shall be filed with the Iowa State Court Administrator. The consent to transfer shall not operate as an admission as to any factual element of the case.

ii. Transfer from docket. Any party to an Iowa Business Specialty Court case may, upon a showing of good cause and lack of unfair prejudice to any other party, request transfer of the case from the business court docket to the regular court docket of the judicial district in which it is filed. The presiding

business court judge shall determine, with or without hearing, whether the case shall be transferred back to the regular docket.

G. Application of Iowa Court Rules.

Existing Iowa Rules of Civil Procedure, rules of evidence, and other applicable Iowa Court Rules shall be applicable in Iowa Business Specialty Court proceedings. The parties, with the approval of the presiding business court judge, may, however, agree to such streamlined rules of pretrial procedure and discovery as will promote the fair, prompt, and efficient resolution of cases.

H. Evaluation of Pilot Program.

The State Court Administrator shall conduct, or cause to be conducted, a periodic review of the Iowa Business Specialty Court pilot program assessing whether the program is achieving its purpose and meeting its goals. The Administrator shall report the findings made in the periodic reviews of the program and make any recommendations for its improvement to the supreme court on or before June 1 in the years 2014, 2015, and 2016.

Dated this 21st day of December, 2012.

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